



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/686,170

10/15/2003

Ludwig Pernstich

KADZ 200034

6800

7590

05/25/2005

Richard J. Minnich, Esq.  
Fay, Sharpe, Fagan, Minnich & McKee, LLP  
Seventh Floor  
1100 Superior Avenue  
Cleveland, OH 44114-2518

EXAMINER

STERLING, AMY JO

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/686,170

Applicant(s)

PERNSTICH ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 and 18-23 is/are rejected.
- 7) ☒ Claim(s) 13-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the **Final Office Action** for application number 10/686,170 Tripod, filed on 10/15/03. Claims 1-23 are pending. This **Final Office Action** is in response to applicant's reply dated 2/25/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

Claims 12-17 are objected to because of the following informalities:

It is not clear whether the lever is intended to be a positive limitation of the claim or merely an environment for use of telescoping rod. If the "lever" is intended to be a positive limitation of the claim then the claim should recite "a lever". If the "lever" is intended to be an intended use of the holding bracket, then the imitations of the claims should be changed to incorporate functional language. Appropriate correction is required. Claim 12 was examined as if the lever is used as a functional statement, the amendments which have changed the scope of the claim. Claims 13-17 were examined as if the lever is a positive limitation because of the description of the lever interacting with the device.

### ***Claim Rejections - 35 USC § 102***

Claims 1-12, 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6007259 to Mori et al.

The patent to Mori et al. discloses a tripod having a tripod top (12) and at least one tripod leg (1) with at least three telescopically guided segments (2, 3, 5) with an endcap (14), which house an abutment surface and a fixing device (7) which has a clamping device (10) with a rod (10a1) located and acts on the inside of the first segment (2), the clamping device located on the rod, the clamping device which is actuated by rotation of the middle segment (3) (See Col. 2, lines 26-36 for rotation of middle segment), relative to the first segment (2), facing the tripod top (12) and the third segment (5) is facing away from the tripod top and is disposed rotationally fast relative to the middle segment (3) rotation of the fixing device fixes the adjusted length of both the second and third segments. Mori et al also including a turning handle (31) which is pivotally mounted on the first segment to act on the middle segment in rotationally fast fashion, and wherein the clamping device has a rod (10a1) which is non-rotatable with respect to the first segment and rotatable with respect to the middle and third segments and a sheath slide (10b) having a which is non-rotatable and axially displaceable on the rod and an oblique surface (13) with a return spring (16) located in the endcap (14) which loads the slide towards the oblique surface on abutment surfaces of the segments. Mori et al. also teaches a second clamping element (8) acting on the inside of the middle segment and disposed on the end of the third segment facing the tripod top.

***Allowable Subject Matter***

Claims 13-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reason is that the prior art does not show that the clamping lever acts on the first segment and is linked to the third segment or that the clamping device is a lever that engages the inside of three segments upon rotation of the middle segment.

***Response to Arguments***

The applicant has argued that the Mori et al. reference does not teach wherein "a fixing device which fixers the desired length of both second and third segments upon rotational actuation of only the one fixing device" (See Reply, page 10, dated 2/25/05). This is unpersuasive because if the third segment is "locked" relative tot the second segment, the actuation of the fixing device will adjust both segments to a longer or shorter length synonymously.

The applicant has argued that claims 12-17 are now in condition for allowance. However, the amendments to claim 17 have changed the scope of the claim, changing the lever from a positive limitation to a functional statement. The amendments have necessitated the rejection as shown above.

Art Unit: 3632

**Conclusion**

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



AJS  
Amy J. Sterling  
5/16/05



ANITA KING  
PRIMARY EXAMINER